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Assigned to: Ways and Means

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Committee Report: Favorable with amendments  
House action: Adopted  
Read second time: March 21, 2006

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CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Education - Blind and Visually Impaired Students - Instructional Materials**

3 FOR the purpose of requiring the State Department of Education to ~~establish a~~  
4 ~~certain instructional resources center~~ collaborate with and provide support to  
5 the Instructional Resources Center to develop certain procedures to coordinate  
6 the statewide availability of certain textbooks and certain supplementary  
7 instructional materials that may be accessed using a ~~nonvisual means~~;  
8 ~~requiring the Department to adopt a certain standard~~ certain specialized  
9 formats using a certain federal standard; requiring the Department and county  
10 boards of education to include a certain provision in certain procurement  
11 contracts; providing that certain publishers may not be required to provide  
12 electronic copies of certain instructional materials; requiring the State Board of  
13 Education to coordinate with the National Instructional Materials Access  
14 Center to facilitate the transfer of certain electronic files and certain  
15 instructional materials; requiring ~~a certain instructional resource center~~ the  
16 Instructional Resources Center to ~~ensure the availability of~~ make reasonable  
17 efforts to provide certain materials ~~for~~ to certain students by a certain day each  
18 year or as soon as possible thereafter; requiring the Governor to provide a  
19 certain appropriation in the annual budget submission beginning in a certain

1 fiscal year; ~~requiring the Maryland Library for the Blind and Physically~~  
 2 ~~Handicapped to request that certain publishers send certain electronic copies of~~  
 3 ~~certain instructional materials to the Library at the request of certain students;~~  
 4 ~~authorizing the Library to determine the eligibility of certain students to~~  
 5 ~~request and use certain instructional materials; providing that certain~~  
 6 ~~publishers may not be required to provide electronic copies of certain~~  
 7 ~~instructional materials; requiring certain State agencies to review certain~~  
 8 ~~research and recommendations and make a certain report to the Governor and~~  
 9 ~~General Assembly;~~ defining certain terms; and generally relating to  
 10 instructional materials for blind and visually impaired students.

11 BY repealing and reenacting, with amendments,  
 12 Article - Education  
 13 Section 8-408  
 14 Annotated Code of Maryland  
 15 (2004 Replacement Volume and 2005 Supplement)

16 ~~BY adding to~~  
 17 ~~Article - Education~~  
 18 ~~Section 11-901 to be under the new subtitle "Subtitle 9. Instructional Materials~~  
 19 ~~for Blind and Physically Handicapped Students"~~  
 20 ~~Annotated Code of Maryland~~  
 21 ~~(2004 Replacement Volume and 2005 Supplement)~~

22 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
 23 MARYLAND, That the Laws of Maryland read as follows:

24 **Article - Education**

25 8-408.

26 (a) (1) In this section the following words have the meanings indicated.

27 (2) "Child who is blind or visually impaired" means a child who:

28 (i) Has a visual acuity of 20/200 or less in the better eye with  
 29 correcting lenses or has a limited field of vision so that the widest diameter of the  
 30 visual field subtends an angle no greater than 20 degrees;

31 (ii) Has a medically indicated expectation of visual deterioration; or

32 (iii) Has a medically diagnosed limitation in visual functioning that  
 33 restricts the child's ability to read and write standard print at levels expected of other  
 34 children of comparable ability and grade level.

35 (3) "Braille" means the system of reading and writing through touch  
 36 commonly known as Standard English [Grade 2] CONTRACTED Braille.

1 (4) "Individualized education program" and "IEP team" have the same  
2 meaning as provided by the Individuals with Disabilities Education Act Amendments  
3 of 1997, P.L. 105-17, Section 614(d).

4 (5) "NATIONAL INSTRUCTIONAL MATERIALS ACCESS CENTER" MEANS  
5 THE CENTER ESTABLISHED UNDER § 674(E) OF THE FEDERAL INDIVIDUALS WITH  
6 DISABILITIES EDUCATION ACT OF 2004.

7 (6) "NIMAS" MEANS THE NATIONAL INSTRUCTIONAL MATERIALS  
8 ACCESSIBILITY STANDARD ESTABLISHED BY THE FEDERAL SECRETARY FOR  
9 EDUCATION UNDER 20 U.S.C. 1412 TO BE USED IN THE PREPARATION OF ELECTRONIC  
10 FILES SUITABLE AND USED SOLELY FOR EFFICIENT CONVERSION INTO SPECIALIZED  
11 FORMATS.

12 (7) "PRINT INSTRUCTIONAL MATERIALS" MEANS PRINTED TEXTBOOKS  
13 AND RELATED PRINTED CORE MATERIALS THAT ARE WRITTEN AND PUBLISHED  
14 PRIMARILY FOR USE IN ELEMENTARY SCHOOL AND SECONDARY SCHOOL  
15 INSTRUCTION AND ARE REQUIRED BY THE DEPARTMENT OR COUNTY BOARD FOR  
16 USE BY STUDENTS IN THE CLASSROOM.

17 (8) "SPECIALIZED FORMATS" MEANS BRAILLE, LARGE PRINT, AUDIO, OR  
18 DIGITAL TEXT THAT IS ~~EXCLUSIVELY FOR USE~~ USED BY BLIND OR ~~OTHER~~  
19 ~~INDIVIDUALS WITH DISABILITIES~~ VISUALLY IMPAIRED INDIVIDUALS.

20 (b) (1) In developing the individualized education program for a child who is  
21 blind or visually impaired, provisions shall be made for instruction in braille and the  
22 use of braille unless the IEP team determines, after an evaluation of the child's  
23 reading and writing skills, needs, and appropriate reading and writing media,  
24 including an evaluation of the child's future needs for instruction in braille or the use  
25 of braille, that such instruction or use is not appropriate for the child.

26 (2) A child may not be denied the opportunity for instruction in braille  
27 reading and writing solely because the child has some remaining vision.

28 (3) This section does not require the exclusive use of braille if other  
29 reading and writing media are appropriate to the child's educational needs. The use of  
30 other reading and writing media does not preclude the use of braille or the instruction  
31 of braille.

32 (c) For the purpose of achieving successful implementation of this section, the  
33 State Board and the Professional Standards and Teacher Education Board shall adopt  
34 certification standards for teachers of blind and visually impaired students.

35 (d) (1) The Department shall ~~ESTABLISH AN~~ COLLABORATE WITH AND  
36 PROVIDE SUPPORT TO THE INSTRUCTIONAL RESOURCE RESOURCES CENTER TO  
37 develop procedures to coordinate the statewide availability of textbooks and  
38 supplementary instructional materials [in nonvisually accessible media] THAT MAY  
39 BE ACCESSED USING ~~NONVISUAL MEANS INCLUDING ADOPTING~~ SPECIALIZED  
40 FORMATS THAT USE NIMAS.

1 (2) (I) THE PROCEDURES DEVELOPED UNDER PARAGRAPH (1) OF THIS  
 2 SUBSECTION SHALL REQUIRE THE DEPARTMENT AND A COUNTY BOARD TO  
 3 INCLUDE, IN ANY PROCUREMENT CONTRACT OR OTHER DOCUMENT OR AGREEMENT  
 4 USED TO PURCHASE PRINT INSTRUCTIONAL MATERIALS FROM A PUBLISHER, A  
 5 PROVISION THAT REQUIRES THE PUBLISHER TO:

6 (H) 1. ON OR BEFORE THE DELIVERY OF THE PRINT  
 7 INSTRUCTIONAL MATERIALS, PREPARE AND PROVIDE THE NATIONAL  
 8 INSTRUCTIONAL MATERIALS ACCESS CENTER ELECTRONIC FILES CONTAINING THE  
 9 CONTENTS OF THE PRINT INSTRUCTIONAL MATERIALS USING NIMAS; OR

10 (H) 2. PURCHASE INSTRUCTIONAL MATERIALS FROM THAT  
 11 PUBLISHER THAT ARE PRODUCED IN, OR MAY BE RENDERED IN, SPECIALIZED  
 12 FORMATS.

13 (II) A PUBLISHER MAY NOT BE REQUIRED TO PROVIDE AN  
 14 ELECTRONIC COPY OF ANY INSTRUCTIONAL MATERIAL COPYRIGHTED BEFORE JULY  
 15 1, 2007.

16 [(2)] (3) The State Board shall [adopt regulations to require a publisher  
 17 of a textbook, including texts in electronic media adopted by a county board to  
 18 furnish, upon request, the instructional resource center established under paragraph  
 19 (1) of this subsection with an electronic version of pupil edition textbooks for literary  
 20 subjects, and for nonliterary subjects when the technology is available to convert  
 21 nonliterary subject textbooks to a format compatible with braille translations  
 22 software, in which the content:

23 (i) Is encoded in text suitable for conversion into braille or  
 24 synthesized speech; and

25 (ii) Has been prepared using a markup language that maintains  
 26 the structural integrity of the information and can be processed by braille translation  
 27 software] COORDINATE WITH THE NATIONAL INSTRUCTIONAL MATERIALS ACCESS  
 28 CENTER TO FACILITATE THE TIMELY TRANSFER OF THE ELECTRONIC FILES OR  
 29 INSTRUCTIONAL MATERIALS SENT BY PUBLISHERS TO THE INSTRUCTIONAL  
 30 RESOURCE RESOURCES CENTER ESTABLISHED UNDER PARAGRAPH (1) OF THIS  
 31 SUBSECTION TO CONVERT THE INSTRUCTIONAL MATERIALS INTO SPECIALIZED  
 32 FORMATS OF:

33 (I) ELECTRONIC FILES OR INSTRUCTIONAL MATERIALS SENT BY  
 34 PUBLISHERS FOR THE INSTRUCTIONAL RESOURCES CENTER TO CONVERT THE  
 35 INSTRUCTIONAL MATERIALS INTO SPECIALIZED FORMATS; AND

36 (II) ELECTRONIC FILES OR INSTRUCTIONAL MATERIALS  
 37 PURCHASED FROM A PUBLISHER IN A SPECIALIZED FORMAT.

38 (4) BEGINNING ON JULY 1, 2007, THE INSTRUCTIONAL RESOURCE  
 39 RESOURCES CENTER SHALL ENSURE THAT MAKE REASONABLE EFFORTS TO  
 40 PROVIDE THE INSTRUCTIONAL MATERIALS IN SPECIALIZED FORMATS ARE  
 41 AVAILABLE TO STUDENTS WHO ARE BLIND OR HAVE OTHER QUALIFYING

1 ~~DISABILITIES VISUALLY IMPAIRED~~ FOR USE ON THE FIRST DAY OF CLASSES EACH  
2 YEAR ~~OR IN A TIMELY MANNER.~~

3 (e) BEGINNING IN FISCAL YEAR 2008 AND ANNUALLY THEREAFTER, THE  
4 GOVERNOR SHALL INCLUDE \$150,000 IN THE ANNUAL BUDGET SUBMISSION FOR THE  
5 INSTRUCTIONAL RESOURCES CENTER ESTABLISHED ~~UNDER THIS SECTION BY THE~~  
6 ~~DEPARTMENT.~~

7 (F) The State Board shall adopt regulations consistent with § 7-910 of this  
8 article to implement the provisions of this section.

9 ~~SUBTITLE 9. INSTRUCTIONAL MATERIALS FOR BLIND AND PHYSICALLY~~  
10 ~~HANDICAPPED STUDENTS.~~

11 ~~44-901.~~

12 (A) ~~IN THIS SECTION, "NIMAS" HAS THE MEANING STATED IN § 8-408 OF THIS~~  
13 ~~ARTICLE.~~

14 (B) ~~ON THE REQUEST OF AN ELIGIBLE STUDENT WHO IS BLIND OR HAS~~  
15 ~~ANOTHER QUALIFYING DISABILITY, THE MARYLAND LIBRARY FOR THE BLIND AND~~  
16 ~~PHYSICALLY HANDICAPPED SHALL REQUEST THAT A PUBLISHER THAT OFFERS FOR~~  
17 ~~SALE ELECTRONIC OR PRINTED TEXTBOOKS USED BY STUDENTS ENROLLED IN~~  
18 ~~INSTITUTIONS OF HIGHER EDUCATION AND INSTITUTIONS OF POSTSECONDARY~~  
19 ~~EDUCATION IN THE STATE PROVIDE AN ELECTRONIC COPY OF THE INSTRUCTIONAL~~  
20 ~~MATERIAL TO THE MARYLAND LIBRARY FOR THE BLIND AND PHYSICALLY~~  
21 ~~HANDICAPPED USING NIMAS.~~

22 (C) ~~THE MARYLAND LIBRARY FOR THE BLIND AND PHYSICALLY~~  
23 ~~HANDICAPPED MAY DETERMINE THE ELIGIBILITY OF THE STUDENTS REQUESTING~~  
24 ~~THE INSTRUCTIONAL MATERIALS UNDER SUBSECTION (B) OF THIS SECTION.~~

25 (D) ~~A PUBLISHER MAY NOT BE REQUIRED TO PROVIDE AN ELECTRONIC COPY~~  
26 ~~OF ANY INSTRUCTIONAL MATERIAL COPYRIGHTED BEFORE JULY 2007.~~

27 SECTION 2. AND BE IT FURTHER ENACTED, That:

28 (1) The Maryland Higher Education Commission and the Maryland  
29 Department of Disabilities shall review the research and recommendations developed  
30 by the Association of American Publishers' National Alternative Formats Initiative  
31 regarding approaches and technologies to best provide textbooks to postsecondary  
32 students with print disabilities.

33 (2) On or before December 31, 2006, the Maryland Higher Education  
34 Commission and the Maryland Department of Disabilities shall report to the  
35 Governor and, in accordance with § 2-1246 of the State Government Article, the  
36 General Assembly on procedures to ensure that postsecondary students with print  
37 disabilities have access to instructional materials.

1 SECTION ~~2.~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take  
2 effect July 1, 2006.